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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,267	04/28/2005	Miyuki Hagiwara	HOSHINO.001 AUS	7346

7590 06/13/2007
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EXAMINER	
WEIER, ANTHONY J	

ART UNIT	PAPER NUMBER
1761	

MAIL DATE	DELIVERY MODE
06/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/533,267

Applicant(s)

HAGIWARA ET AL.

Examiner

Anthony Weier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6 and 7 is/are pending in the application.
- 4a) Of the above claim(s) 1 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3,6 and 7 is/are allowed.
- 6) ☒ Claim(s) 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe et al taken together with JP 9-191848 or JP 11-332496 and further in view of Boatright.

Watanabe et al discloses a process wherein soybeans that have been crushed are treated by several processing steps including treatment with a super-heated vapor (e.g. steam) wherein it is expected that same occurs under atmospheric pressure since no pressure is provided and wherein it is expected that such heat treatment provides some drying of the crushed soybean.

Watanabe et al is silent regarding the particular time and temperature employed during the super-heated vapor step as called for in the instant claims. However, such determination of time and temperature to facilitate the desolventizing (and natural drying) of the soybean material would have been well within the purview of a skilled artisan, and it would have been obvious to one having ordinary skill in the art at the time of the invention to have attained such values as a matter of preference depending on,

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for example, the time constraints imposed by those using the process and to have arrived at such specific amounts through routine experimental optimization.

Watanabe et al is silent regarding treatment of lipoxygenase-free soybean. However, it is well known to powderize soybean that is lipoxygenase free as taught, for example, by JP 9-191848 or JP 11-332496. Moreover, although it is well known that working with lipoxygenase-free soybeans produces less beany odor, it is also known that just because the soybean is lipoxygenase-free, odors are not eliminated altogether. This suggestion is set forth in col. 1 of Boatright. It would have been obvious to one having ordinary skill in the art at the time of the invention to have further employed the vapor treatment of Watanabe et al to further reduce the odors related to processing soybeans which would still be present in the lipoxygenase-free soybeans.

Allowable Subject Matter

3. Claims 3, 6, and 7 are allowed in view of Applicant's convincing arguments set forth in the response filed 7/3/06.

Response to Arguments

4. Applicant's arguments filed 3/27/07 have been fully considered but they are not persuasive. In particular, Applicant argues that Watanabe utilizes chemical agents and steam during the process wherein the instant invention only employs water vapor treatment. However, it should be noted that instant claim 2 does not exclude other processing steps including the addition of chemical agents, since instant claim 2 employs the "comprising" open language in reciting the process steps. Moreover, Watanabe utilizes the chemical agents in a step that differs from that of the water vapor

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treatment step. In other words, during the water vapor treatment step, it appears that Watanabe only uses steam as called for in the second step of claim 2.

All other arguments have been addressed in view of the rejection above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Weier whose telephone number is 571-272-1409. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anthony Weier
June 6, 2007

Anthony Weier
Primary Examiner
Art Unit 1761

A handwritten signature in black ink, appearing to be 'Anthony Weier', with a horizontal line extending to the right. Below the signature, the date '6/6/07' is written vertically.